THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10001 of 1998

ORAL ORDER:

This writ petition is filed being aggrieved by the award passed in I.D.No.7/93 (C) dated 18.12.1995 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam.

On the dispute raised by the Union, the following issue was referred for adjudication to the first respondent-Labour Court:

> "Whether the action of the management of Visakhapatnam Port Trust in prescribing 25 years as the age limit for appointment on compassionate/ medical grounds, as stipulated in their Circular No.E/D/37/11492 dated 18.12.1989, without issuing notice under Section 9A of the Industrial Disputes Act, 1947, justified? If not, to what relief the workmen are entitled ?

Before the Labour Court, it was the case of the General Secretary, Port and Dock Employees Association that many of the employees are compelled to retire on medical grounds leaving lengthy service ranging from 5 to 10 years ahead, so as to secure employment to their children on compassionate grounds without crossing the age of 25 years. There are Government Orders to relax the age and educational qualifications of the children of employees who retire on medical grounds and died in harness. The Chief Mechanical Engineer is not competent to issue the said circular and it is the Chairman, who is competent to issue circular dated 18.12.1989. It was also the case of the Union that the said circular was issued without issuing any notice under Section 9-A of the Industrial Disputes Act, 1947.

The petitioner management filed a detailed counter denying the allegations made by the Union stating that there cannot be any general relaxation of age. The relaxation is given to the extent of over age of a

candidate for the period after medical invalidation of the parent employee, but not the over age of the candidate at the time of medical invalidation of the parent employee. None were examined on behalf of both parties and no documents were marked on behalf of workmen. However, documents Exs.M1 to M4 were marked on behalf of management. After a detailed consideration of the documentary evidence and other material made available on record, the Labour Court came to the conclusion that the retirement of an employee on medical invalidation is unusual and unexpected and it may happen to an employee at any stage of his employment and he may be invalidated leaving a dependant family. It is to meet such contingencies that the employer is required to provide employment to his dependant child without the reference of employment exchange, even by relaxing requirements of appointment in matters like age and educational qualifications if they are not absolutely required for the purpose of discharging the duties attached to the post to which he is sought to be appointed. The management has to consider each case individually about the condition of the family, nature of post to which appointment is to be made, the extent of relaxation of age and other relevant factors if any, and no general provisions can be made regarding the extent of relaxation as is made in the circular dated 18.12.1989. Thus, the Labour Court held that the action of the management of Visakhapatnam Port Trust in prescribing 25 years as the age limit for appointment on compassionate grounds as stipulated in their circular No.E/D/37/11492 dated 18.12.1989 is not justified and age limit for each appointment on compassionate grounds has to be considered on its own merits. I am of the opinion that the Labour Court has furnished valid and cogent reasons in answering the issue referred to it. No ground is made out to interfere with such an award passed by the Labour Court. The writ petition is devoid of merit and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU,
J

Date: 18.4.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.10001 of 1998

18.4.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.10001 of 1998

Date: 18th April, 2007

Between:

Visakhapatnam Port Trust,
Visakhapatnam, represented by its
Chairman.

.. Petitioner

And

The Industrial Tribunal-cum-Labour Court,
Visakhapatnam & another.

.. Respondents